



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 8, 1998

Mr. James R. Schnurr
Assistant City Attorney
Criminal Law & Police Division
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR98-2998

Dear Mr. Schnurr:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 120007.

The Dallas Police Department (the "department") received a request for "any information" concerning the requestor's arrest for charges which were later dropped. In response to the request, you submit to this office for review a copy of the information at issue. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception and arguments you have raised and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

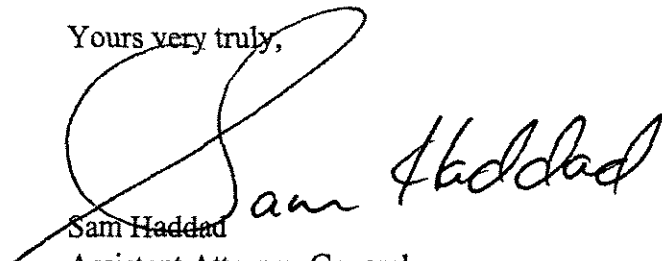
Gov't Code § 552.108. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

Although you appear to assert that the information at issue is subject to "pending criminal investigation," we note that a cursory review of the records indicates that the "complainant wishes not to prosecute." However, you also inform this office that arrest report number 98-046670, identified by service number 0503732G, is excepted from disclosure, because the case investigation "has not resulted in a conviction or adjudication of guilt." Based on the submitted information, we find that you have shown the applicability of section 552.108(a)(2) to the requested information, since the investigation *did not* result in conviction or deferred adjudication.

As you are aware, certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c). Section 552.108(c) provides that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for basic front page information, the submitted information may be withheld under section 552.108(a)(2), though the department also has discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,


Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref.: ID# 120007

Enclosures: Submitted documents

cc: Mr. Dale Martin Cavanaugh
1036 Upper Finley Road East
Dyersburg, Tennessee 38024
(w/o enclosures)